

**BEFORE
THE FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554**

In the Matter of)	
Federal-State Joint Board on Universal)	Docket No. 96-45
Service)	FCC 01-J2

**REPLY COMMENTS OF THE NATIONAL ASSOCIATION OF STATE
UTILITY CONSUMER ADVOCATES**

The National Association of State Utility Consumer Advocates (“NASUCA”) hereby submits its reply comments on the Lifeline and Link-Up programs to the Federal-State Joint Board on Universal Service (“Joint Board”).¹ Because of the large number of commenters and the wide range of issues raised, NASUCA will respond only to selected comments. NASUCA’s lack of response to any comment by another party should not be interpreted as agreement with or acquiescence in that comment.

For the most part, NASUCA was pleased to observe that virtually all commenters were supportive of the Lifeline and Link-Up programs in concept. The sole skeptic was Verizon, which minimized the importance of Lifeline and Link-Up in increasing telephone subscribership among low-income consumers.² Verizon relied on a chart,

¹ NASUCA is an association of 44 consumer advocates in 40 states and the District of Columbia. NASUCA’s members are designated by the laws of their respective states to represent the interests of utility consumers before state and federal regulators and in the courts.

² “[T]here is little correlation between Lifeline penetration and subscribership among low-income households.” Verizon at 1.

Attachment B to its comments, for the proposition that “Lifeline penetration alone does not necessarily equate to higher overall subscribership among low-income consumers.” Verizon at 3. Verizon’s chart, however, measures neither the effectiveness of, nor the need for, Lifeline.

It is not surprising that factors other than Lifeline participation rates affect each state’s telephone penetration rates among low-income consumers. Unquestionably, such factors as the cost of basic telephone service, the overall cost of living, and the availability of and level of financial assistance programs other than Lifeline will affect the ability of low-income families in different states to obtain and retain telephone service. The measure of Lifeline’s effectiveness, however, is whether it enables more low-income consumers in a state to subscribe (and continue to subscribe) to telephone service than would be the case without Lifeline. Verizon’s Attachment B sheds no light on this question at all. Other commenters, however, demonstrate that making it easier for low-income persons to participate in Lifeline does increase telephone penetration rates. *See, e.g.*, United States Conference of Catholic Bishops, et al. (“USCCB”) at 7-12. Indeed, some of the carriers acknowledge that income is the most important determinant of a consumer’s decision whether to subscribe to telephone service. Sprint Corporation (“Sprint”) at 3.

The Commission Should Adopt Income Eligibility

The initial comments filed in this docket also demonstrate the importance of making as many low-income families as possible eligible for Lifeline. The most effective

way to do this is to add income as an independent criterion for eligibility, independent of participation in other low income programs.³

Many commenters supported adding income level as a factor that would qualify low-income households for Lifeline. This included some local exchange company (“LEC”) commenters. See, e.g., BellSouth Corporation (“BellSouth”) at 2; Gila River Telecommunications, Inc. (“GRTI”) at 2-7. Those commenters opposing this proposal generally do so for two reasons. Some are simply philosophically opposed to setting federal eligibility guidelines, and argue that each state should determine eligibility; others claim that adding income eligibility would open the door to fraud. Neither objection is sufficient to justify excluding from the benefits of the Lifeline program the large numbers of low-income households who would be eligible but for the fact that they do not participate in other assistance programs.

NASUCA’s members are, for the most part, state agencies, and are sensitive to protecting state prerogatives. Nevertheless, the fact is that Lifeline and Link-Up are federal programs, funded largely with federal dollars even in those states which themselves provide some additional funding, and subject to federal minimum requirements in areas other than eligibility. It is thus entirely appropriate to set minimum federal eligibility standards which would apply to all states. This would help to ameliorate the current situation wherein consumers in neighboring states are subject to significantly different eligibility standards for a program which is largely funded with federal dollars. Of course, states should still retain the flexibility to go beyond the federal eligibility minimums if they wish. Moreover, states that contribute additional funds to

³ As set forth in our prior comments (at 16-19), NASUCA proposes that families and individuals be eligible for Lifeline if household income is at or below 150 percent of the federal poverty guideline.

Lifeline programs should retain the discretion to set their own eligibility requirements for those programs, but should also offer the “federal” program, with benefit levels and eligibility standards set by the FCC, as an additional option, as recommended in NASUCA’s initial comments.

Other commenters fear that making households eligible for Lifeline and Link-Up based solely on income will facilitate fraud because income is more difficult to verify than participation in a government program. NASUCA agrees that it is important to design Lifeline in a manner which discourages fraud; however, we also recognize the importance of making Lifeline benefits available to as many people as possible whose income prevents them from otherwise obtaining telephone service. Both of these objectives can be met by permitting telephone companies to conduct spot audits of samples of customers who sign up for Lifeline based on income, as suggested in NASUCA’s initial comments and discussed further below. Additionally, we note that commenters with experience with income eligibility found that fraud is not a problem. USCCB at 14-15; Public Utility Commission of Texas (“Texas”) at 7; Minnesota Department of Commerce, Minnesota Department of Human Services, and Minnesota Office of the Attorney General-Residential and Small Business Utilities Division (“Minnesota”) at 4; Comments of the National Consumer Law Center on Behalf of Massachusetts Union of Public Housing Tenants (“NCLC”) at 13. Similarly, the comments of Western Wireless Corporation (“Western Wireless”), a successful lifeline provider, did not mention fraud as a matter of concern.

SBC Communications Inc. (“SBC”) states that consumers may not participate in the Lifeline program due to their unwillingness to receive public assistance, even though

it may be readily available. SBC at 2,7. It appears that SBC agrees with NASUCA that consumers who are eligible for low-income programs may not, for whatever reason, participate in those programs.⁴ NASUCA at 23. This is exactly the rationale for including an income eligibility criterion in the Lifeline program. Continuing to base eligibility solely on participation in a set of low-income programs leaves a gaping hole in the Lifeline safety net. It is commonly accepted that some people are unwilling to receive public assistance. Minnesota at 2; Tennessee Regulatory Authority at 2; USCCB at 6-7, 19; GRTI at 5; NCLC at 12. Many commenters noted that the application process can be complicated and cumbersome, and that this can act as a barrier to participation. GRTI at 5; NCLC at 13; Western Wireless at 5; USCCB at 13-16. This points out the need to streamline the application and verification process as much as possible. The best methods of doing this involve automatic enrollment and self-certification.

Automatic Enrollment And Self-Certification Are Appropriate Measures For Increasing Lifeline Participation

Automatic enrollment of participants in income assistance programs garnered wide support not only from consumer and low-income advocates but also from state commissions. See, e.g. Florida Public Service Commission (“Florida”) at 5; Public Utilities Commission of Ohio (“Ohio”) at 5. Those commenters who did not support automatic enrollment generally cited either the administrative difficulties it presents, SBC at 4, or claimed that automatic enrollment compels the enrollment of low-income

⁴ Additionally, because of changes in the nature of some low-income programs in recent years, many people who would formerly have been eligible for various programs are no longer eligible, even though they may still have low incomes. See, e.g., BellSouth at 2.

households even if they would prefer not to participate. Verizon at 7. Neither of these issues warrants the omission of an automatic enrollment requirement.

NASUCA agrees that there can be complications involved in setting up an automatic enrollment process, flowing primarily from the fact that the cooperation of other agencies is required, and these agencies are not under the control of the telephone company, the state commission, or the FCC. Nevertheless, many states have had success in working with a variety of agencies to implement automatic enrollment,⁵ and the fact that the success rate will probably be less than one hundred percent is not a reason to give up completely. Rather, as suggested in NASUCA's prior comments, the Commission's rules should specify a preference for automatic enrollment where possible, and require companies desiring not to use automatic enrollment to seek a waiver. Where they are willing, state regulatory agencies should also be used to facilitate the sharing of information between the telephone company and the various human services agencies.

The other primary objection to automatic enrollment raised in the comments was the notion that it forced eligible participants to enroll in Lifeline even if, for whatever reason, they would prefer not to enroll. However, this need not be a problem. In Ohio, for instance, as explained in NASUCA's December 31 comments, current telephone subscribers who participate in programs using automatic enrollment receive a letter explaining that they are eligible to receive Lifeline benefits and providing the opportunity to decline the service. Thus, only customers who wish to participate in Lifeline are actually enrolled.

⁵ According to the initial comments, automatic enrollment is in use in Ohio, Minnesota, New York, Texas, and Nevada, and under consideration in other states.

One additional point, raised only by SBC, concerned the effectiveness of automatic enrollment as a device for increasing participation in Lifeline. SBC points to its experience in Ohio, where it claims that, in November, it reviewed over 15,000 records from the Ohio Department of Jobs and Family Services and wound up enrolling only 487. SBC, however, provides no information as to whether November was a representative month. Information available separately to the Ohio Consumers' Counsel, NASUCA's Ohio member, indicates that automatic enrollment added approximately 20,000 Lifeline customers from November 2000 through December 2001.⁶ Given that this represents only the customers of one telephone company in one state based on records received from only one state agency, NASUCA believes the numbers reinforce the effectiveness of automatic enrollment.

Self-certification is also an important characteristic of successful Lifeline programs.⁷ The parties that did not support self-certification in comments focused on the fear that adopting self-certification would permit persons who are not actually eligible to enroll nevertheless and to obtain benefits, funded by others, for which they are not actually eligible. *See, e.g.*, SBC at 3; Worldcom, Inc. ("Worldcom") at 3-4. No commenters, however, cite any studies indicating that self-certification has in fact increased fraud in any of the jurisdictions in which it is employed. To the contrary, commenters who have experience with self-certification generally support it as an efficient and effective means of enabling low-income consumers to be connected to the

⁶ See Attachment 1, provided to the Ameritech Ohio USA Advisory Committee on January 28, 2002 by Mary Jo Wenkus, SBC's Associate Director, Core Services, Lifeline, Disabilities.

⁷ NCLC at 4.

telecommunications network. Ohio at 2; Texas at 7; People of the State of California and the California Public Utilities Commission (“California”) at 7-8. As California points out, “studies indicate that the cost of verifying eligibility would exceed losses resulting from fraud and abuse.” *Id.* at 7; *see also* Beacon Telecommunications Advisors, LLC (“Beacon”) at 2: “[S]ignificant occurrences of such abuse have not come to the attention of our clients.”⁸ Given the fact that a number of states and telephone companies have already employed self-certification, and none claim to have actual evidence that it has led to increased fraud, NASUCA continues to urge the Commission to require companies to adopt self-certification as a method of enrolling consumers who do not appear on the rolls of qualifying programs in Lifeline and Link-Up programs. To allay any fears about increases in fraudulent enrollments, NASUCA recommends the use of sample verification audits and appropriate fraud warnings on self-certification forms.

Additional Issues

Along with automatic enrollment and self-certification, the comments indicate that an outreach program aimed at educating potential clients about the availability of lifeline benefits is also a necessary component of an effective Lifeline program. *See, e.g.*, NCLC at 4. Many samples of successful outreach programs and materials were also provided, e.g. Florida at 7-9. NASUCA also continues to urge that the Commission require the establishment of state level Consumer Advisory Boards to help in the

⁸ Beacon describes itself as “a telecommunications-consulting firm ... [which] represents approximately 40 local exchange carriers in Alaska, Arizona, Colorado, Illinois, Kansas, Louisiana, Missouri, New Mexico, and Oklahoma.” Beacon at 1.

development of outreach materials tailored to the needs of low-income consumers in each area.

Two additional points raised in the initial comments deserve mention. First, NASUCA supports prohibiting telephone companies from marketing vertical services to new or existing Lifeline customers, as urged by the Public Utilities Commission of Ohio at 8,⁹ although NASUCA does not support Ohio's suggestion that Lifeline customers' right to order such services on their own initiative be curtailed. Additionally, NASUCA supports the suggestion that telephone companies be required to give separate notice for local service disconnections that do not include any unpaid balances for other services such as toll or vertical services. Colorado Department of Human Services, Office of Self-Sufficiency, and the Colorado Office of Consumer Counsel at 8. NASUCA also continues to support a prohibition on disconnection of local service for nonpayment of toll charges, and continues to urge that the Commission direct that Lifeline-eligible customers whose service has been disconnected for nonpayment be reconnected if they pay \$25 toward their arrearage and pay off the total arrearage related to local service within six months. A carrier-specific toll block could be placed on the customer's line until any toll arrearage is paid off.

For the reasons set forth herein, NASUCA urges the Commission to take the steps set forth in these reply comments and in NASUCA's comments filed in this docket on

⁹ For instance, telephone companies should not be permitted to market vertical services when a subscriber or potential subscriber calls with questions about Lifeline service, or in any other circumstances where it is clear that the customer is a Lifeline participant. We do not mean to foreclose incidental marketing to Lifeline customers, such as placing a bill insert in all residential customers' bills. Nor do we mean to prohibit the provision of accurate information about vertical services if the issue is raised by the customer or applicant.

December 31, 2001, in order to increase the effectiveness of the Lifeline and Link-Up programs.

Respectfully submitted,

ROBERT S. TONGREN
CONSUMERS' COUNSEL

Barry Cohen
Assistant Consumers' Counsel
cohen@occ.state.oh.us
Karen J. Hardie
Kathy Hagans
Principal Regulatory Analysts
Linda Pausch
Mindy Mitchell
Compliance Specialists

Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, OH 43215-3485
Phone (614) 466-8574
Fax (614) 466-9475

Michael J. Travieso
Chair, NASUCA Telecommunications
Committee

NASUCA
8300 Colesville Road, Suite 101
Silver Spring, MD 20910
Phone (301) 589-6313
Fax (301) 589-6380

MONTH	AUTO ENROLLMENT				
	ODHS	ODHS Notes	ODOD	CMHA	TOTAL
June 99	2,435	614 Area Code Only			2,435
July 99	1,257	“			1,257
August 99	12	“			12
September 99	36	“			36
October 99	--	“			--
November 99	--	“			--
December 99	31	“			31
January 00	53	“			53
February 00	72	“			72
March 00	42	“			42
April 00	42	“			42
May 00	456	“			456
June 00	68	“			68
July 00	69	“			69
August 00	57	“			57
September 00	66	“			66
October 00	810	Entire State			810
November 00	12,357	<i>File from ODHS was over 533K in size; normal file size is about 150K</i>			12,357
December 00	529				529
January 01	62				62
February 01	87				87
March 01	88				88
April 01	110				110
May 01	1,607				1,607
June 01	600				600
July 01	643				643
August 01	588				588
September 01	No data				--
October 01	2,800				2,800
November 01	479				479
December 01	401				401
					--
TOTAL Current Year	7,465				7,465
NOTE: In October and November 1999 there were system problems and no files were received					
NOTE: Neal's count is based on Lifeline effective date (not date order actually written)					